

JUL 01 2005

GNE.3030R1C10

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Goddard et al. (as amended)
Appl. No.	: 10/035,977
Filed	: December 26, 2001
For	: NUCLEIC ACIDS ENCODING POLYPEPTIDES THAT INDUCE CELL PROLIFERATION (as amended)
Examiner	: Kolker, Daniel E.
Group Art Unit	: 1646

DECLARATION UNDER 37 CFR §1.131

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

We declare and state as follows:

1. We are the inventors of the invention claimed in the above-captioned patent application.
2. During the time period in which we participated in the events and activities described herein, we were employed by Genentech, Inc., the assignee of the above-captioned application.
3. All of the events and activities described herein were performed by us personally, or by others at our direction as part of our duties as employees of Genentech, Inc.
4. The invention claimed in the above-captioned patent application was conceived and reduced to practice in the United States prior to November 18, 1999 as described below.
5. Prior to November 18, 1999, we conceived of the invention claimed in the above-captioned patent application. This is demonstrated by the attached sequence printout (Exhibit A), which was generated prior to November 18, 1999, and which shows the complete sequence of the nucleic acid having the sequence of SEQ ID NO: 56. The attached printout also shows the complete sequence of the polypeptide which has the sequence of SEQ ID NO: 57. As evidenced by the sequence printout, we were in possession of the complete nucleic acid and amino acid sequences prior to November 18, 1999.
6. The date deleted from Exhibit A is prior to November 18, 1999. This date was redacted pursuant to M.P.E.P. § 715.07. The date that remains is the date the report was printed, April 28, 2005.

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7. After these initial experiments, we diligently reduced the claimed subject matter to practice by working to express and purify the encoded polypeptide and to run it systematically through many assays. The cDNA was deposited with the American Type Culture Collection (ATCC) on April 20, 1999 and assigned ATCC no. 203948. The protein of interest was assigned a "protein inventory number" (e.g., PIN1205-1), and this protein is a polypeptide having the sequence of SEQ ID NO:57, and is encoded by SEQ ID NO: 56.

8. Exhibit B shows that the protein lot designated PIN1205-1 was delivered to James Pan on a date prior to November 18, 1999 in order to perform assay ASY92, called "Mouse Mesangial Cell proliferation Assay." Also, as shown in Exhibit B, the assay was completed on a date prior to November 18, 1999. Exhibit B also shows that the tested polypeptides tested positive ("All Positives"), thereby confirming the ability of the encoded polypeptide to induce mesangial cell proliferation. Thus, actual reduction to practice occurred on a date prior to November 18, 1999.

9. The dates deleted from Exhibit B all are prior to November 18, 1999. These dates were redacted pursuant to M.P.E.P. § 715.07. The date that remains is the date the report was printed, April 28, 2005.

10. After reducing the invention to practice, we worked with the Genentech, Inc. patent department to prepare a non-provisional patent application, which included the sequences of SEQ ID NO:56 and SEQ ID NO:57, as well as the data showing the ability to induce mesangial cell proliferation. That application was filed on March 1, 2000 as PCT/US00/05601.

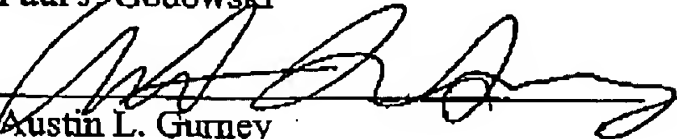
11. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

By:   
Audrey Goddard

Date: 6/21/05

By: \_\_\_\_\_  
Paul J. Godowski

Date: \_\_\_\_\_

By:   
Austin L. Gurney

Date: 6/8/05

By: \_\_\_\_\_  
James Pan

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Colin K. Watanabe

Date: \_\_\_\_\_

By: \_\_\_\_\_  
William L. Wood

Date: \_\_\_\_\_

1723256; 052105

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By: \_\_\_\_\_ Date: 6/20/05  
Paul J. Godowski

By: \_\_\_\_\_ Date: 6/8/05  
Austin L. Gurney

By: \_\_\_\_\_ Date: \_\_\_\_\_  
James Pan

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By: \_\_\_\_\_  
Paul J. Godowski

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Austin L. Gurney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
James Pan

Date: June 9/05

By: \_\_\_\_\_  
Colin K. Watanabe

Date: \_\_\_\_\_

By: \_\_\_\_\_  
William L. Wood

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